Financial Experts Network
Estate Planning Master Class

Session 1: Tax-Smart Strategies for Inheriting or Passing on Large IRAs and Other Assets

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Pre-Planning before Death

Part 1 of 2

Learning Objectives

Help	Help clients avoid common inherited IRA mistakes
Understand	Understand SECURE Act implications
Explain	Explain asset titling impacts
Enlighten	The impact of beneficiary designations
Coordinate	Coordinate annuity and life insurance planning with estate plans
Discuss	Discuss advanced trust planning concepts such as TeaPot Trust strategies

THE GREAT WEALTH TRANSFER

CERULLI PROJECTS WEALTH TRANSFERRED THROUGH 2048

WILL TOTAL
$124 TRILLION

$105 TRILLION Expected to flow to heirs

$18 TRILLION Expected to go to charity

NEARLY **$100 TRILLION** will be transferred from Baby Boomers and older generations, representing **81%** of all transfers.

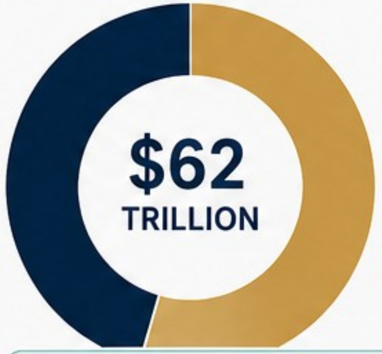
SOURCES OF WEALTH TRANSFER

By Generation

- **$100 TRILLION (81%)** Baby Boomers & Older Generations
- **$18 TRILLION (15%)** Generation X
- **$6 TRILLION (4%)** Younger Generations

These transfers will occur over the next 25 years, through 2048.

THE MAJORITY OF WEALTH TRANSFERRED COMES FROM A SMALL PERCENTAGE OF HOUSEHOLDS



More than 50% of the overall total volume of transfers—
$62 TRILLION
is expected to come from those who are currently high-net-worth and ultra-high-net-worth (HNW/UHNW).

HNW/UHNW HOUSEHOLDS Make up only **2%** of all households

BUT WILL CONTRIBUTE More than **50%** of total wealth transfers

Source: Cerulli Associates | The Cerulli Report—U.S. High-Net-Worth and Ultra-High-Net-Worth Markets 2024: The Great Wealth Transfer: Capturing Money in Motion | December 5, 2024

THE FIRST TRANSFER: TO SPOUSES

THE CRITICAL FIRST STEP IN THE WEALTH TRANSFER JOURNEY

$54 TRILLION

WILL BE PASSED ON TO **SPOUSES**

before eventually transferring intergenerationally to heirs and to charities.

THE JOURNEY OF WEALTH TRANSFER

STEP 1 — TO SPOUSES
Wealth is first transferred horizontally to a surviving spouse.

STEP 2 — TO HEIRS
After the surviving spouse passes, wealth transfers to the next generation.

STEP 3 — TO CHARITIES
A portion of wealth ultimately supports charitable causes.

THE MAJORITY OF THIS WEALTH IS FOR WIDOWED WOMEN

NEARLY **$40 TRILLION**

OF THESE SPOUSAL TRANSFERS WILL BE GOING TO **WIDOWED WOMEN**

in the Baby Boomer and older generations.

Widowed women will temporarily control enormous pools of wealth before it is ultimately transferred to heirs and to charities.

CREATING A MASSIVE NEED AND OPPORTUNITY
for providers across the wealth and asset management spaces.

WHY THIS MOMENT MATTERS

LONGER LIFE EXPECTANCY
Women typically outlive their spouses by 5–7 years on average.

SUDDEN WEALTH RESPONSIBILITY
Widowed women often face complex financial decisions at a time of emotional transition.

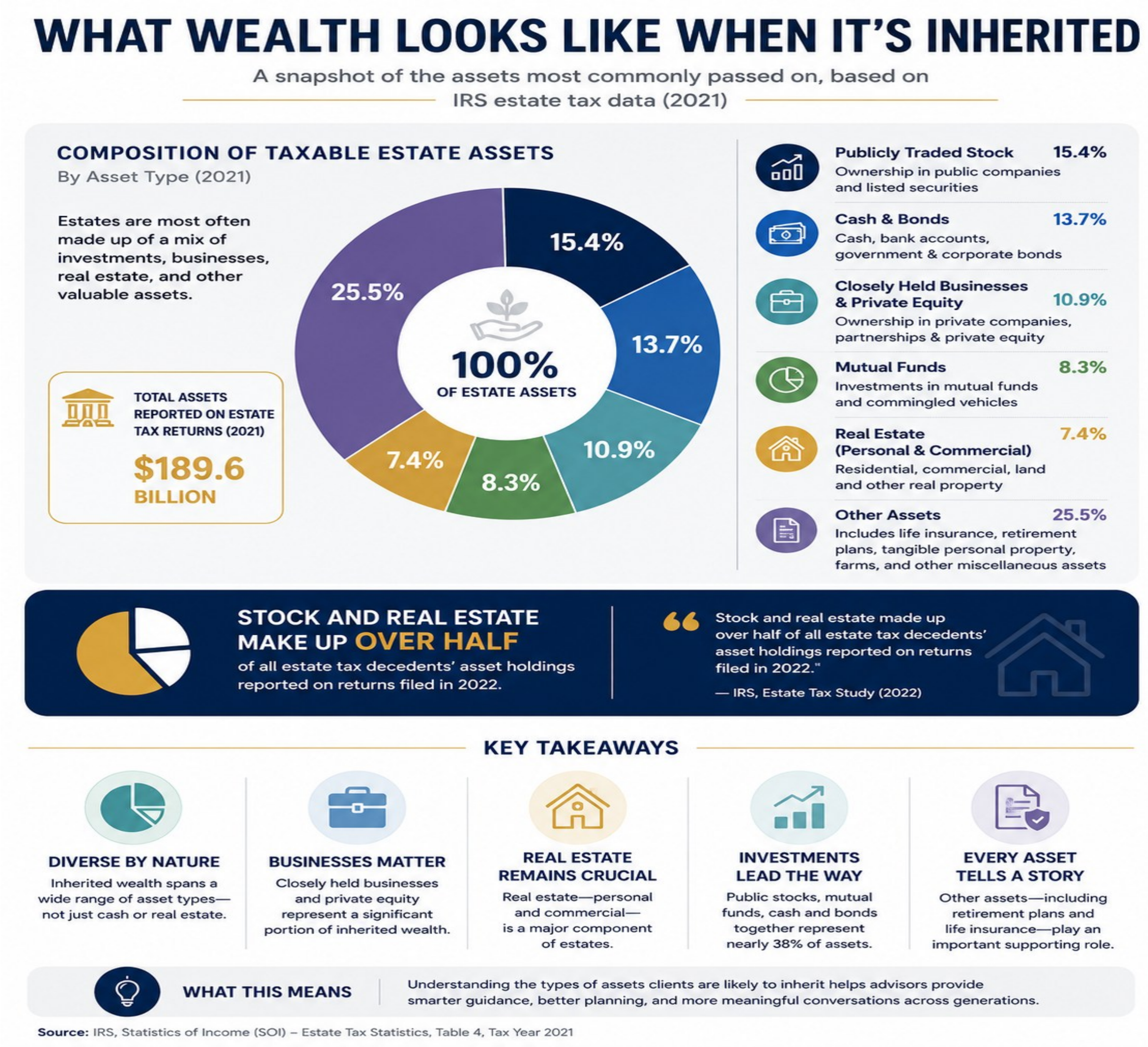
SIGNIFICANT NEED
This creates a massive need for guidance, education and personalized support.

SIGNIFICANT OPPORTUNITY
A powerful opportunity for trusted advisors and providers across the wealth and asset management spaces.

HORIZONTAL TRANSFERS TO SPOUSES ARE THE FIRST AND MOST SIGNIFICANT STEP IN THE WEALTH TRANSFER PROCESS.
Understanding and supporting widowed women is essential to helping families preserve, manage and prepare wealth for future generations.

KEY TAKEAWAY
Widowed women represent a critical and growing client segment—one that will shape the future of wealth management for decades to come.

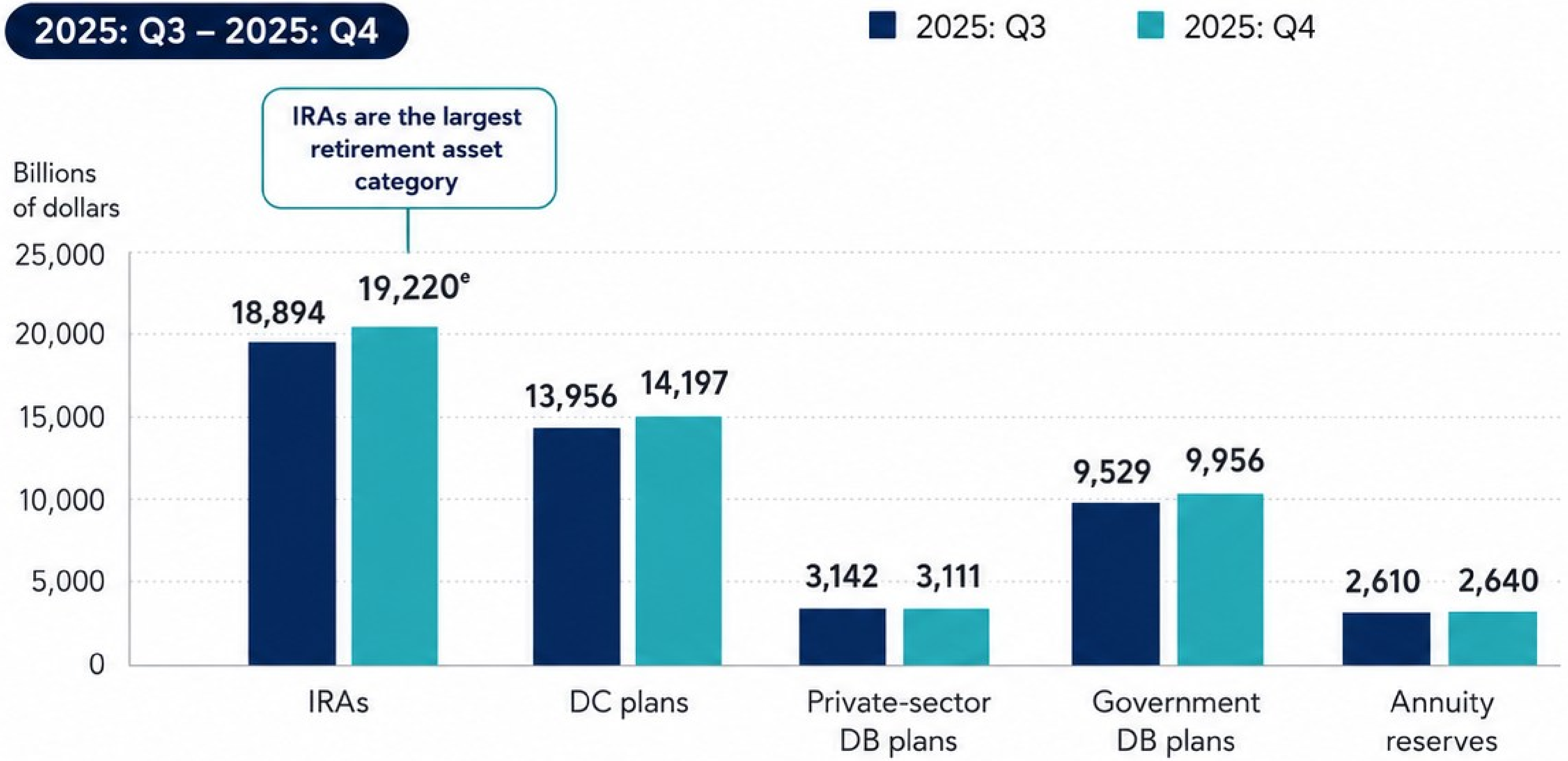
Source: Cerulli Associates | The Cerulli Report—U.S. High-Net-Worth and Ultra-High-Net-Worth Markets 2024: The Great Wealth Transfer: Capturing Money in Motion | December 5, 2024


WHAT WEALTH LOOKS LIKE WHEN IT'S INHERITED
A snapshot of the assets most commonly passed on, based on IRS estate tax data (2021)
COMPOSITION OF TAXABLE ESTATE ASSETS
By Asset Type (2021)
Estates are most often made up of a mix of investments, businesses, real estate, and other valuable assets.
TOTAL ASSETS REPORTED ON ESTATE TAX RETURNS (2021)
$189.6 BILLION
15.4%
13.7%
10.9%
8.3%
7.4%
25.5%
100%
OF ESTATE ASSETS
Publicly Traded Stock 15.4%
Ownership in public companies and listed securities
Cash & Bonds 13.7%
Cash, bank accounts, government & corporate bonds
Closely Held Businesses & Private Equity 10.9%
Ownership in private companies, partnerships & private equity
Mutual Funds 8.3%
Investments in mutual funds and commingled vehicles
Real Estate (Personal & Commercial) 7.4%
Residential, commercial, land and other real property
Other Assets 25.5%
Includes life insurance, retirement plans, tangible personal property, farms, and other miscellaneous assets
STOCK AND REAL ESTATE MAKE UP OVER HALF
of all estate tax decedents' asset holdings reported on returns filed in 2022.
"Stock and real estate made up over half of all estate tax decedents' asset holdings reported on returns filed in 2022."
— IRS, Estate Tax Study (2022)
KEY TAKEAWAYS
DIVERSE BY NATURE
Inherited wealth spans a wide range of asset types—not just cash or real estate.
BUSINESSES MATTER
Closely held businesses and private equity represent a significant portion of inherited wealth.
REAL ESTATE REMAINS CRUCIAL
Real estate—personal and commercial—is a major component of estates.
INVESTMENTS LEAD THE WAY
Public stocks, mutual funds, cash and bonds together represent nearly 38% of assets.
EVERY ASSET TELLS A STORY
Other assets—including retirement plans and life insurance—play an important supporting role.
WHAT THIS MEANS
Understanding the types of assets clients are likely to inherit helps advisors provide smarter guidance, better planning, and more meaningful conversations across generations.
Source: IRS, Statistics of Income (SOI) – Estate Tax Statistics, Table 4, Tax Year 2021

RETIREMENT ASSETS BY TYPE

Billions of dollars, end-of-period

2025: Q3 – 2025: Q4



Americans held **$14.2 trillion** in all employer-based DC retirement plans as of December 31, 2025.

Of that, **$10.1 trillion** was held in 401(k) plans.

ROLL OVER ASSETS ARE A MAJOR COMPONENT OF TRADITIONAL IRAs

of traditional IRA-owning households include **rollover IRA assets** from employer-sponsored retirement plans.

e Estimate.

Note: DB = defined benefit; DC = defined contribution.

Source: Investment Company Institute, *Retirement Assets, Fourth Quarter 2025*

Inheriting Large IRAs

The impact of The SECURE ACT

The New Reality of Inherited IRA Planning

- Most non-spouse beneficiaries must distribute inherited IRAs within 10 years
- During the 10-year term, RMDs are still required under certain circumstances
- Stretch IRA strategies eliminated for all non-Eligible Designated Beneficiaries (EDBs)
- Accelerated taxation risks

INHERITED IRA RULES: BEFORE vs. AFTER THE SECURE ACT

The rules changed. The tax impact can be dramatic.

	BEFORE THE SECURE ACT (Pre-2020)	AFTER THE SECURE ACT (2020 and Beyond)
Stretch IRA Availability	**Widely Available** Most non-spouse beneficiaries could "stretch" RMDs over their life expectancy.	**Greatly Limited** Most non-spouse beneficiaries must withdraw the entire inherited IRA within 10 years.
Distribution Period	**Life Expectancy** Distributions based on beneficiary's life expectancy (single life table).	**10-Year Rule** Full distribution required by the end of the 10th year after the account owner's death.
Required Minimum Distributions (RMDs) During Inheritance	**Yes, Based on Life Expectancy** Annual RMDs required each year based on beneficiary's age.	**Often, But With Exceptions** RMDs required during the 10-year period for most beneficiaries (exception: designated beneficiaries who are EDBs).
Eligible Designated Beneficiaries (EDBs)	**Not Applicable** No special category—most beneficiaries could stretch.	**Special Protection** EDBs (e.g., spouse, minor child, disabled, chronically ill, not more than 10 years younger) may still use life expectancy.
Tax Deferral Potential	**High** Potential for decades of tax-deferred growth.	**Lower** Accelerated taxation due to compressed distribution period.
Planning Opportunities	**More Flexibility** Longer timeline allowed for tax planning and conversions.	**More Urgency Required** Planning must occur earlier to manage taxes, IRMAA, and beneficiary outcomes.

KEY TAKEAWAY: The SECURE Act fundamentally changed inherited IRA planning for most beneficiaries—accelerating distributions and increasing the importance of proactive, tax-smart strategies.

ADVISOR ACTION:
Review beneficiary designations, trust structures, and tax strategies now to help protect more of your clients' legacy.

Additional Details with TRUSTs

Secure Act Beneficiary RMD Summary

Tax Terminology	Designated Non-Eligible Beneficiary	Surviving Spouse	Eligible Minor Child	Person Less Than 10 Years Younger	Disabled or Chronically Ill Person
Outright Beneficiary	10-Year Rule	Life Expectancy Rule	Life Expectancy Rule (Until Majority then 10-Year Rule)	Life Expectancy Rule	Life Expectancy Rule
Conduit Trust	10-Year Rule	Life Expectancy Rule	Life Expectancy Rule (Until Majority then 10-Year Rule)	Life Expectancy Rule	Life Expectancy Rule
Designated Beneficiary Trust	10-Year Rule	10-Year Rule	10-Year Rule	10-Year Rule	Life Expectancy Rule
Non-Designated Beneficiary Trust	Before RBD: 5-Year Rule After RBD: Ghost Life Expectancy Rule	Before RBD: 5-Year Rule After RBD: Ghost Life Expectancy Rule	Before RBD: 5-Year Rule After RBD: Ghost Life Expectancy Rule	Before RBD: 5-Year Rule After RBD: Ghost Life Expectancy Rule	Before RBD: 5-Year Rule After RBD: Ghost Life Expectancy Rule

THE HIDDEN TAX BOMB IN LARGE IRAs

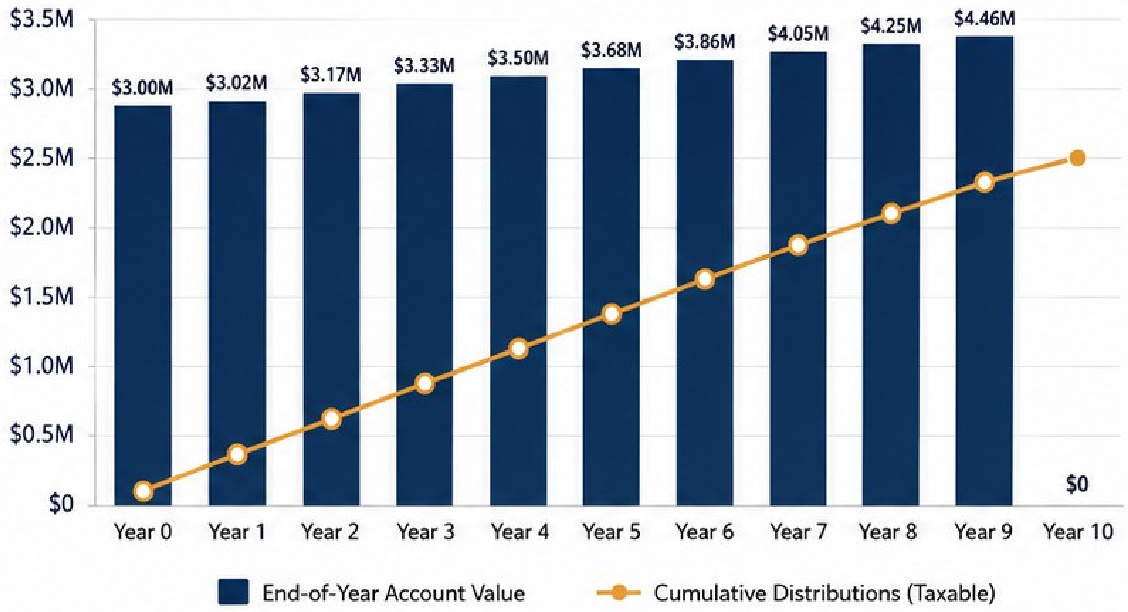
The SECURE Act's 10-Year Rule Can Dramatically Accelerate Income Taxes

TOTAL TAX IMPACT
$1,201,000
(40% of Inherited IRA)

STARTING ASSUMPTIONS

- Inherited Traditional IRA **$3,000,000** Value at Death
- 5% Annual Growth Before Distributions[1]
- Non-Spouse Beneficiaries Subject to 10-Year Rule[2]
- Distributions during Years 1–9 with full distribution in Year 10[3]
- Beneficiary in 32% Federal Marginal Tax Bracket and resides in a 5% State Income Tax State[4]

PROJECTED IRA ACCOUNT VALUE OVER 10 YEARS[5]



Total Taxable Distributions Over 10 Years: $4,461,000

ESTIMATED TAX IMPACT OVER 10 YEARS[6]

Federal Income Tax (Avg. 32%)	$1,027,000
State Income Tax (Avg. 5%)	$223,000
IRMAA Surcharges (Medicare Part B & D)	$62,000
Net Investment Income Tax (3.8% on miscellaneous investment income)[7]	$23,000
Lost Growth Due to Higher Taxes[8]	$39,000
TOTAL ESTIMATED IMPACT	$1,201,000 (40% of Inherited IRA)

KEY TAKEAWAY: Without proper planning, a $3 million inherited IRA could **lose over $1.2 million** to taxes and related costs—reducing generational wealth by **40%**.

1 Source: JP Morgan Guide to the Markets (2024) – 5% long-term average annual return for a balanced portfolio.
2 Source: SECURE Act of 2019 – Non-spouse beneficiaries must distribute inherited IRAs within 10 years.
3 Source: IRS Publication 590-B (2024) – Distributions must be completed by the end of Year 10.
4 Source: Tax Foundation (2024) – Top state marginal income tax rate average ~5%.
5 Source: Future value of $3,000,000 growing at 5% annually.
6 Taxes are estimated on cumulative distributions and assume progressive taxation.
7 Sourcee: IRS – Net Investment Income Tax (NIIT) of 3.8% applies to investment income when modified AGI exceeds applicable thresholds.
8 Source: Assumes 5% annual growth that would have continued absent taxes.

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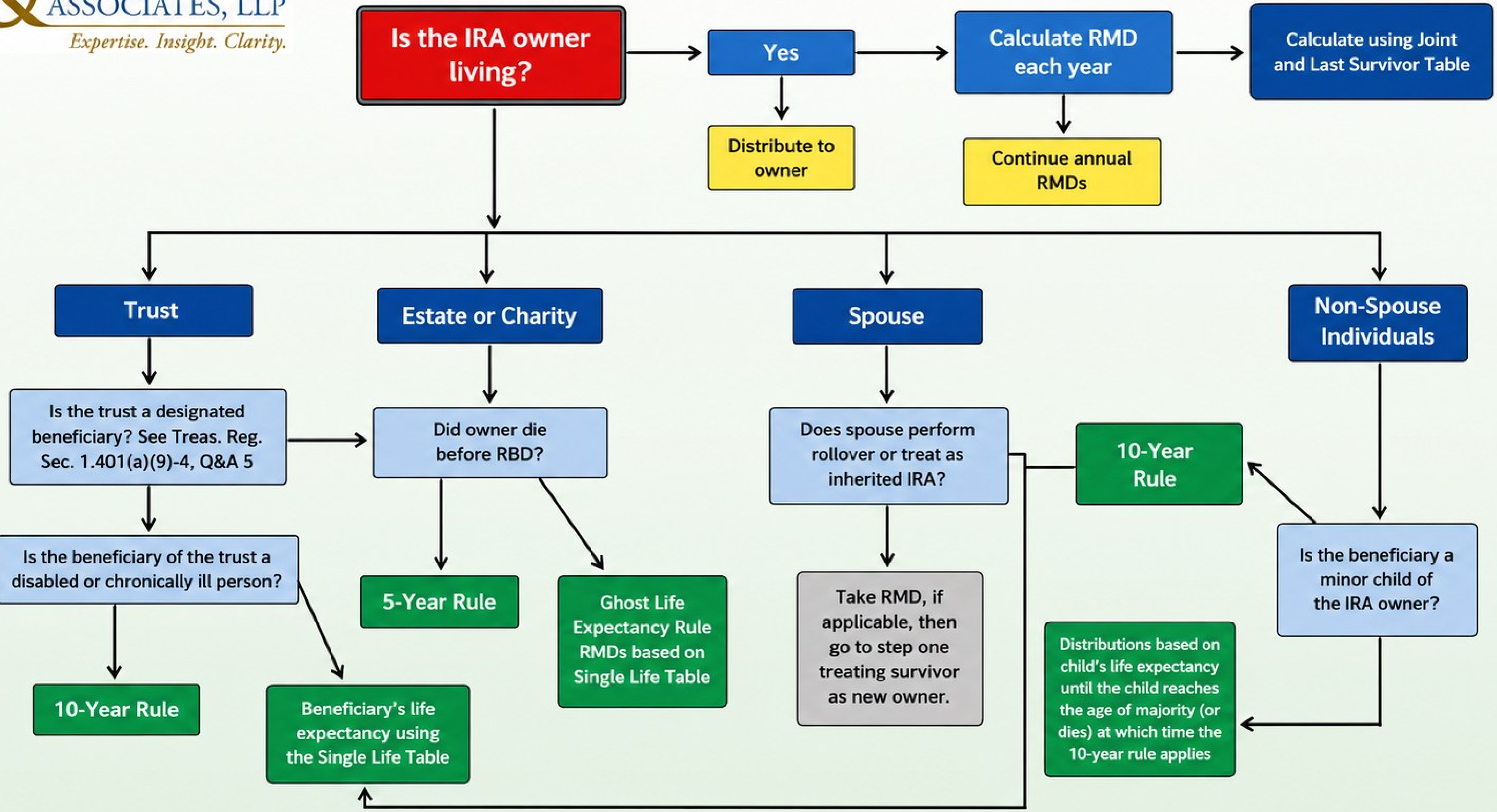
Not intended as tax or legal advice.

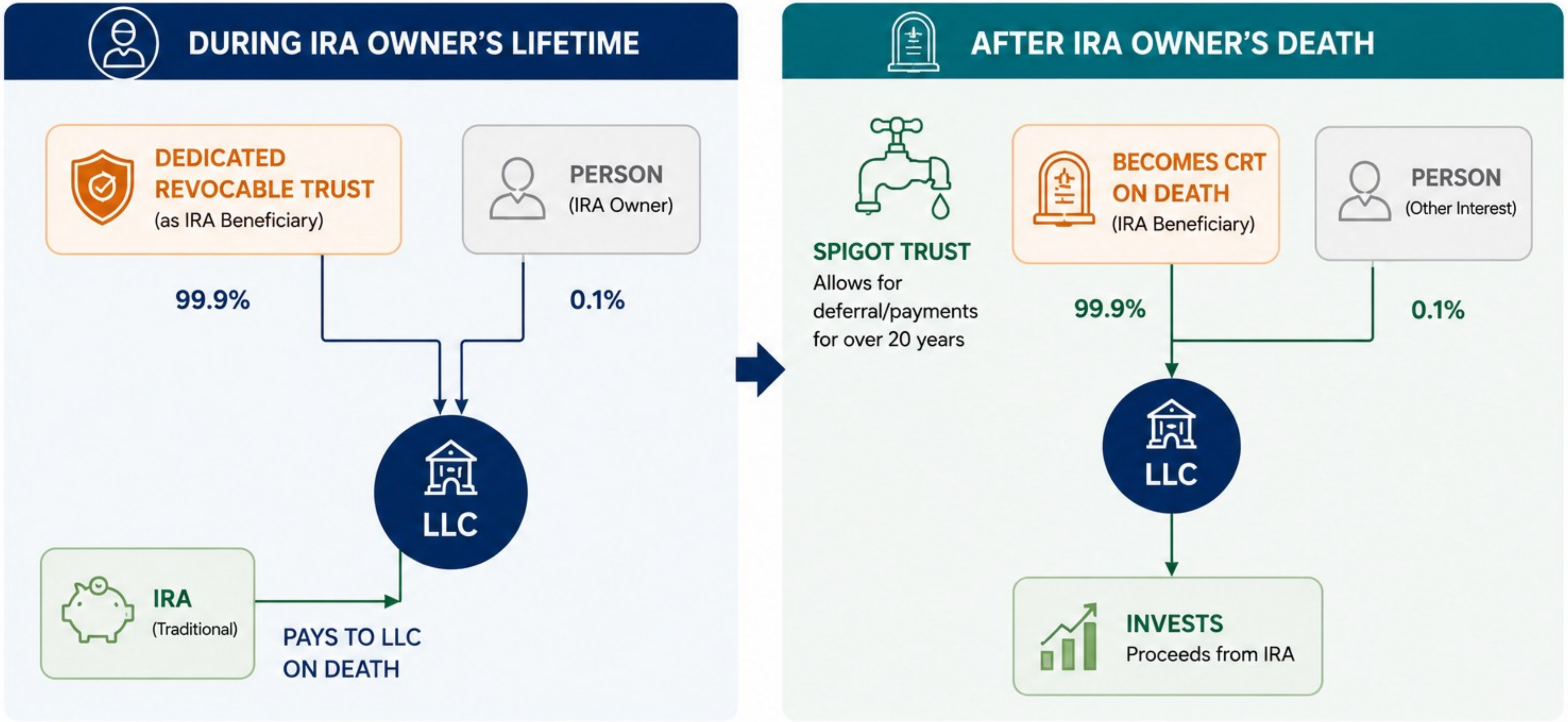
TRADITIONAL IRA RMD FLOWCHART

For Deaths After Effective Date of SECURE Act



THE IRA JOURNEY: FROM ACCUMULATION TO LEGACY

How IRAs Flow During Life—and What Happens After Death

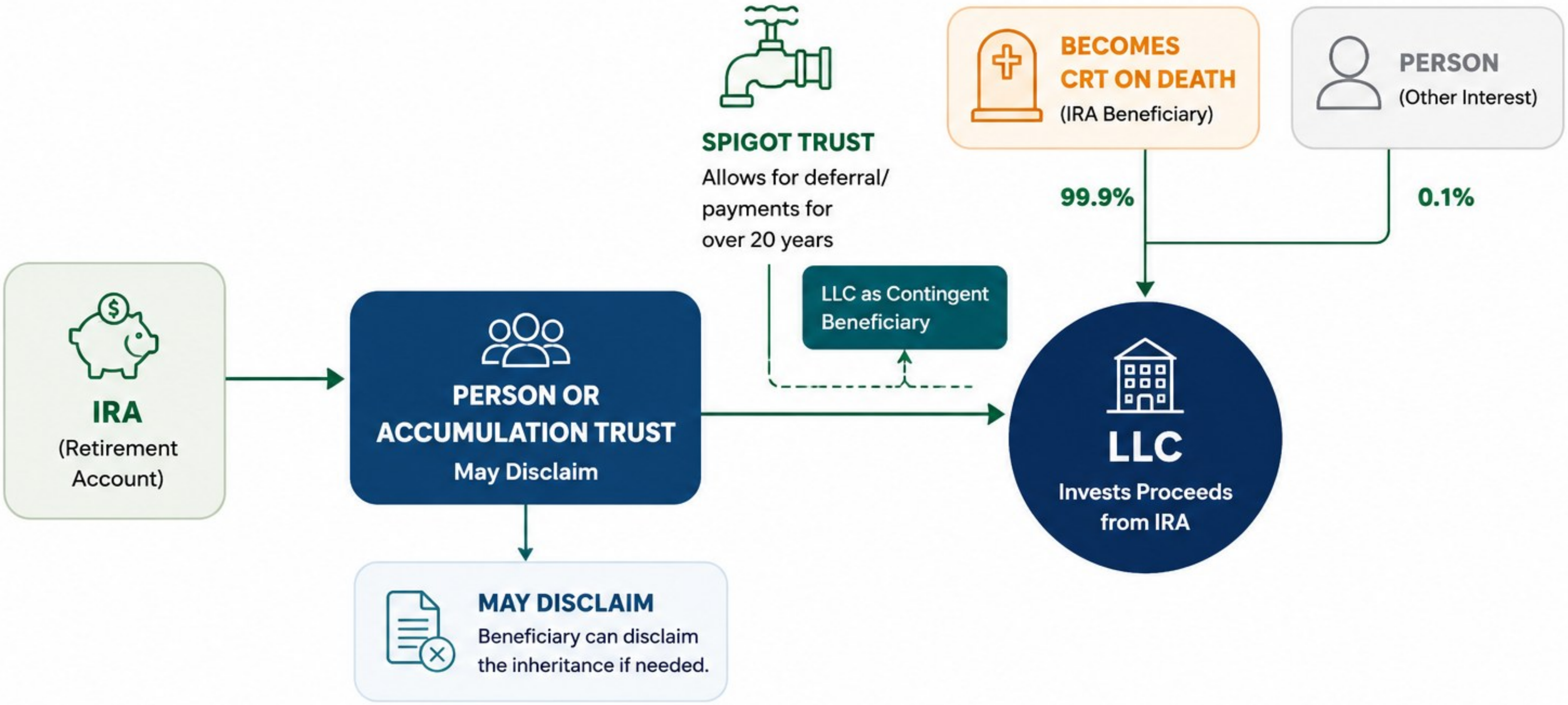


This structure helps preserve IRA assets, provides potential tax advantages through the charitable remainder trust, and allows for flexible distributions to beneficiaries over time.

Note: For educational purposes only and not intended as legal or tax advice. | **Sources:** Investment Company Institute (2025); Cerulli Associates (2024)

DISCLAIMER AFTER IRA OWNER'S DEATH

How Proceeds Can Be Managed Through an LLC for Flexibility and Protection



Using an LLC can provide asset protection, investment control, and potential tax advantages.
The structure allows for flexibility, long-term wealth management, and customized distributions to beneficiaries.

Note: For educational purposes only and not intended as legal or tax advice. | **Sources:** Investment Company Institute (2025); Cerulli Associates (2024)

Trusts as IRA Beneficiaries

Potential Advantages:

- Creditor protection
- Spendthrift protection
- Divorce protection
- Control over distributions
- Protection for vulnerable beneficiaries
- Multi-generational planning

Potential Drawbacks:

- Compressed trust tax brackets
- Complexity
- Drafting errors
- SECURE Act complications
- Loss of flexibility

Sources: IRS Publications 590-A, 590-B, CMS.gov, SECURE Act, ACTEC Resources

Speaking of “TEA POTS”

I’m a little TEA POT, Short and Stout…For many families with large IRA and pension account balances, we believe that this will result in a “Two POT Trust” arrangement.

Under this system, which we call the Twin TEA POT Trust System℠ (the Twin Tax Efficient Accumulation POT Trust System℠), **one POT Trust will receive the IRA/Plan after the death of the Participant, and a 10 year payout right.** The Trustee will have the power to spray distributable net income among beneficiaries in the most tax efficient manner as and when distributions are received from the IRA/Plan by distributing income to beneficiaries in lower tax brackets or beneficiaries who have favorable tax attributes, such as net operating or suspended losses.

The second POT Trust will hold assets that do not generate significant levels of income, such as equities and municipal bond funds, and the Trustee of the second POT Trust can make distributions to beneficiaries who are in higher tax brackets in order to make up for distributions made to other beneficiaries from the IRA/Plan POT Trust. “Two things are infinite: the universe and the benefit of Tea Pot trusts; and I’m not sure about the universe.”[1]

The Twin TEA POT Trust System℠ is a Service Mark owned by Gassman, Crotty & Denicolo, P.A. that can be used for any not-for-profit lectures, publications, and by individuals who have subscribed to this webinar – and their friends!

TeaPot Trust Planning Concepts

TeaPot = “Trusteed Employee Account Plan Opportunity Trust”

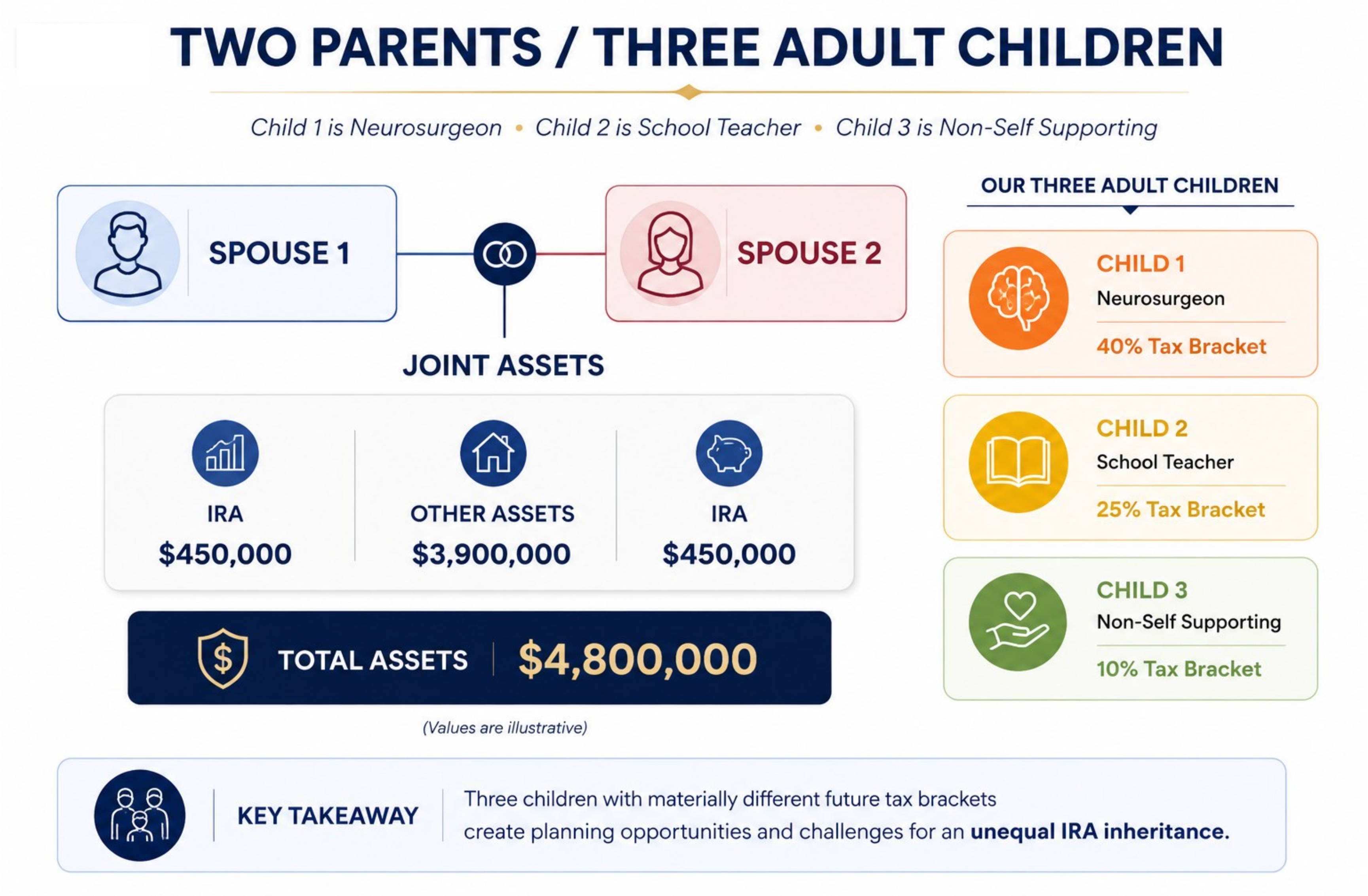
Potential Objectives:

- Preserve tax deferral opportunities
- Increase control over inherited assets
- Enhance beneficiary protections
- Coordinate advanced trust planning with retirement assets

Planning Considerations:

- Complexity
- Trustee selection
- Drafting precision
- SECURE Act implications
- State law coordination

What Do We Tell Our Clients? An Example



UPON THE DEATH OF THE FIRST DYING SPOUSE

One Spouse Dies – Surviving Spouse Rolls Over IRA

SPOUSE 2

Surviving Spouse

IRA	$450,000
Rollover IRA	$450,000
IRA TOTAL	**$900,000**
Other Assets	$3,900,000
TOTAL ASSETS	**$4,800,000**

CHILD 1
Neurosurgeon
40% Tax Bracket

CHILD 2
School Teacher
25% Tax Bracket

CHILD 3
Non-Self Supporting
10% Tax Bracket

The surviving spouse rolls over the inherited IRA, preserving tax-deferred growth and maintaining flexibility for future distributions to the children.

Note: Assumes traditional IRAs. Tax brackets are illustrative and subject to change.

UPON THE DEATH OF THE SURVIVING SPOUSE

Inheritance is Divided Equally – But Taxes Are Not

TRUST FOR CHILD 1
Neurosurgeon
40% Tax Bracket

1/3 IRA Received	$300,000
Less: Taxes Owed (40%)	($120,000)
IRA Value After Taxes	$180,000
Other Assets Received	$1,300,000

TOTAL ESTATE
$1,480,000

TRUST FOR CHILD 2
School Teacher
25% Tax Bracket

1/3 IRA Received	$300,000
Less: Taxes Owed (25%)	($75,000)
IRA Value After Taxes	$225,000
Other Assets Received	$1,300,000

TOTAL ESTATE
$1,525,000

TRUST FOR CHILD 3
Non-Self Supporting
10% Tax Bracket

1/3 IRA Received	$300,000
Less: Taxes Owed (10%)	($30,000)
IRA Value After Taxes	$270,000
Other Assets Received	$1,300,000

TOTAL ESTATE
$1,570,000

Total IRA Assets	$900,000
Total Taxes Owed to IRS	($225,000)
Remaining IRA After Taxes	$675,000
Total Other Assets	$3,900,000

FINAL ESTATE TOTAL
$4,575,000

KEY PLANNING RISKS

1. HIGHER TAXES THAN NECESSARY
IRA distributions may be taxed at higher rates than needed, especially if taken over many years.

2. UNEQUAL OUTCOMES
Equal IRA splits can lead to unequal after-tax results based on children's tax brackets.

3. RUSHED DECISIONS
Beneficiaries may spend trust assets too quickly without a coordinated withdrawal strategy.

4. COMPLEXITY & RISK
Improper withdrawal timing can create errors, unnecessary taxes, or missed savings opportunities.

5. INFLEXIBILITY
Once inherited, IRA rules limit options for adjustments or corrections.

6. STRUCTURE MATTERS
Children's trusts should be properly drafted as separate Accumulation Trusts to maximize flexibility.

Note: Assumes no growth on assets. Tax brackets are illustrative and subject to change.

IMPLEMENT TWIN TEA POT TRUST SYSTEM

AFTER DEATH OF SURVIVING SPOUSE TO MAXIMIZE INCOME TAX SAVINGS

Twin Tax Efficient Accumulation POT Trusts

EQUALIZATION TRUST

ASSETS $1,400,000

AFTER 10 YEARS, OR POSSIBLY SOONER:

- Can review the TEA POT distributions for the first 10 years and distribute "makeup payments" to beneficiaries or trusts to take TEA POT payments into account.
- If TEA POT Trust makes distributions every other year, then Equalization Trust can do the same.

"TEA POT" TRUST

IRA $900,000

FIRST 10 YEARS AFTER DEATH:

- Trustees can hire advisors to determine how to reduce income taxes and defer for up to 10 years by making payments to or for the lowest tax bracket beneficiaries and those who may have significant expenses and deductions.

NOTE: Charitable dispositions might be made from "Equalization Trust" at the request of one or more beneficiaries before September 30th of the calendar year following the Plan Participant's death.

TRUST FOR CHILD 1

Neurosurgeon

40% Tax Bracket

NON-IRA ASSETS

$833,333

TRUST FOR CHILD 2

School Teacher

25% Tax Bracket

NON-IRA ASSETS

$833,333

TRUST FOR CHILD 3

Non-Self Supporting

10% Tax Bracket

NON-IRA ASSETS

$833,333

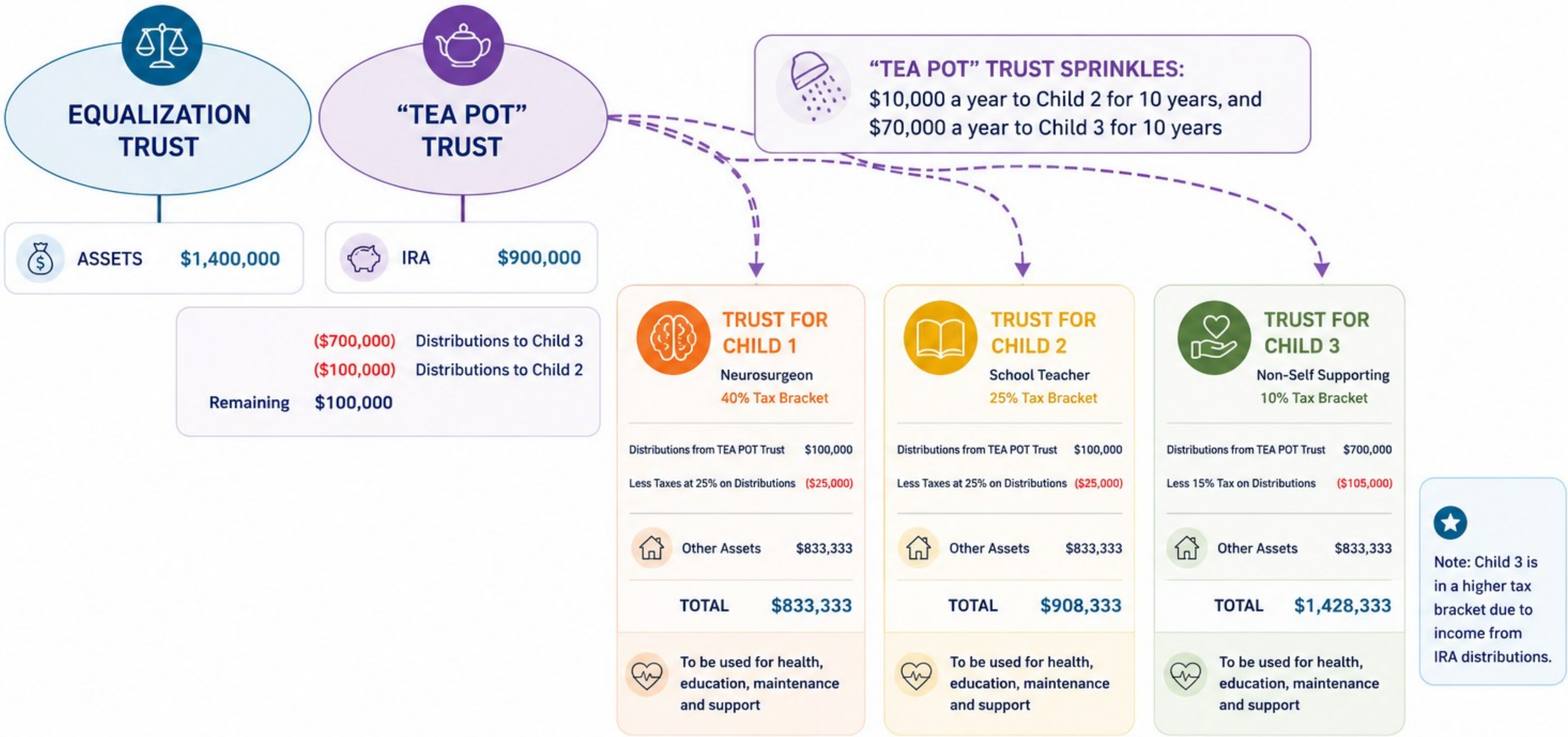
KEY PLANNING INSIGHT

The Twin TEA POT Trust System helps reduce income taxes, defer distributions, and strategically direct IRA assets to the lowest tax bracket beneficiaries — **maximizing after-tax wealth for the family.**

Note: Assumes no growth on assets. Tax brackets are illustrative and subject to change.

IRA DISTRIBUTIONS: FIRST 10 YEARS AFTER SECOND DEATH

TEA POT TRUST SPRINKLES IRA DISTRIBUTIONS TO MINIMIZE TAXES



THIS PERIOD: Above strategy is during the first 10 years after the second death — before the Equalization Trust begins annual even-up distributions.

Note: Assumes no growth on assets. Tax brackets are illustrative and subject to change.

EQUALIZATION TRUST EVEN-UP IN YEAR 11

EQUALIZATION TRUST DISTRIBUTES ASSETS IN YEAR 11 TO ACHIEVE EQUITY

Equalization Trust distributes its assets in Year 11 (or thereafter) based on formula or "what is fair" to facilitate equivalence.

EQUALIZATION TRUST

ASSETS $1,400,000

Child 1 – Yr. 11	($722,600)
Child 2 – Yr. 11	($567,800)
Child 3 – Yr. 11	($109,600)
Balance	$0

"TEA POT" TRUST

IRA $900,000

Prior Distributions	($800,000)
Remaining IRA	$100,000
Child 2 – Yr. 11	($80,000)
Child 3 – Yr. 11	($20,000)
Balance	$0

TRUST FOR CHILD 1

Neurosurgeon
40% Tax Bracket

Other Assets	$833,333
Prior TEA POT Trust Distributions	$0
Sub-Total	$833,333
Year 11 Distribution from TEA POT Trust	$0
Less Total Taxes from Distributions from TEA POT Trust	$0
Equalization Trust Even-Up	$722,600
TOTAL INHERITANCE	**$1,555,933**

TRUST FOR CHILD 2

School Teacher
25% Tax Bracket

Other Assets	$833,333
Prior TEA POT Trust Distributions	$100,000
Sub-Total	$933,333
Year 11 Distribution from TEA POT Trust	$80,000
Less Total Taxes from Distributions from TEA POT Trust	($25,200)
Equalization Trust Even-Up	$567,800
TOTAL INHERITANCE	**$1,555,933**

TRUST FOR CHILD 3

Non-Self Supporting
10% Tax Bracket

Other Assets	$833,333
Prior TEA POT Trust Distributions	$700,000
Sub-Total	$1,533,333
Year 11 Distribution from TEA POT Trust	$20,000
Less Total Taxes from Distributions from TEA POT Trust	($107,000)
Equalization Trust Even-Up	$109,600
TOTAL INHERITANCE	**$1,555,933**

Note: For the purposes of illustrating the mechanics of the structure, we have not assumed any appreciation or income earned on any assets including growth and income associated with the assets held under the above trusts will slowly compound the effects of the TEA POT Trust System.

KEY PLANNING POINTS

1. The IRA income will be taxed at much lower brackets.
2. Each child can be treated equally, if the parents want. Alternatively, if the parents want to favor children who are in lower tax brackets, not including a time value of money makeup provision in the non-TEA POT, that actually indirectly helps the lower bracket children without such intention being expressed in the document.
3. The IRA tax planning can be only in one trust, so you do not have to have three separate trusts that meet the definitions of an Accumulation Trust. For example, the Accumulation Trust cannot benefit charity, or any entity other than the child.
4. This forces the tax family to do tax planning every year – because of the whole nature of it, they have to meet with their lawyer or their CPA every year to do it.
5. Children might be inclined to be more financially prudent due to the potential for a child's share being reduced in Year 11.

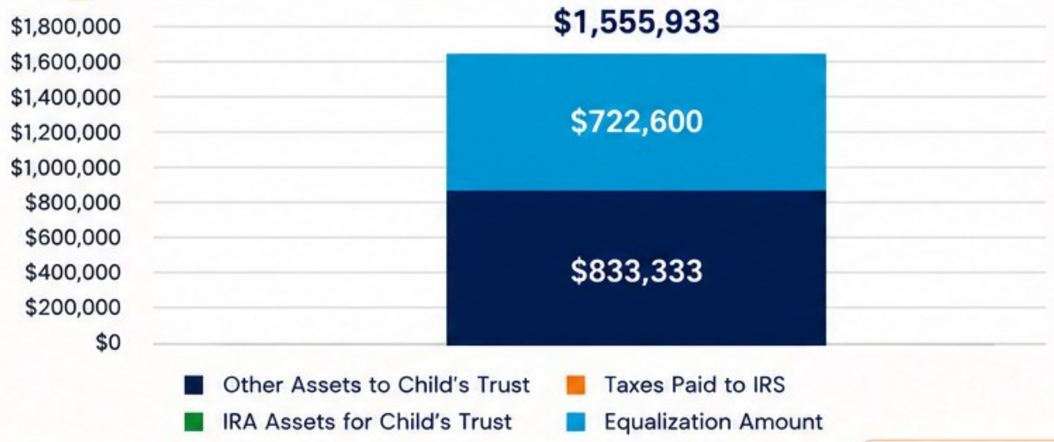
Total IRA Assets	$900,000
Total Taxes Owed to IRS	($132,200)
Remaining IRA Balance after Taxes	$767,800
Total Other Assets	$3,900,000
TOTAL ESTATE AFTER TAXES	**$4,667,800**

Note: Assumes no growth on assets. Tax brackets are illustrative and subject to change.

CHILD 1: IMPACT OF THE TEA POT TRUST SYSTEM

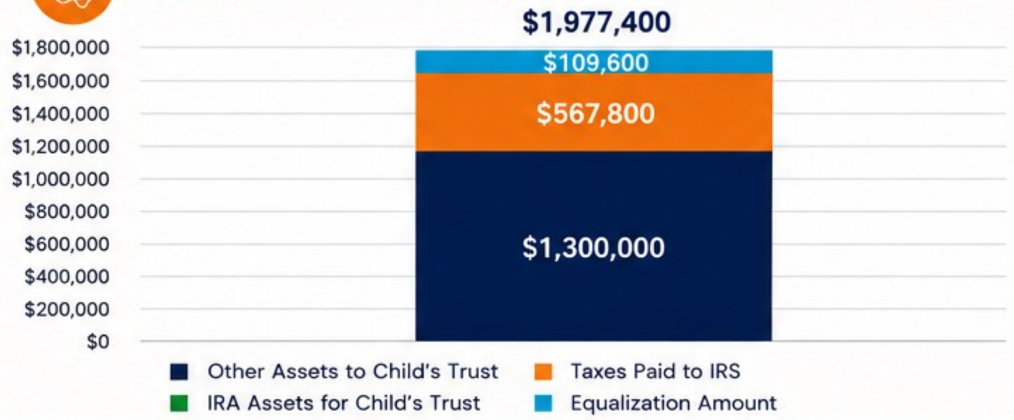
MORE AFTER-TAX WEALTH THROUGH STRATEGIC DISTRIBUTION PLANNING

CHILD 1 – WITH TEA POT TRUST SYSTEM



The TEA POT Trust System significantly **increases** Child 1's after-tax inheritance by reducing taxes and providing an equalization payment.

CHILD 1 – WITHOUT TEA POT TRUST SYSTEM



Without the TEA POT Trust System, higher taxes and no equalization payment result in a **lower** after-tax inheritance for Child 1.

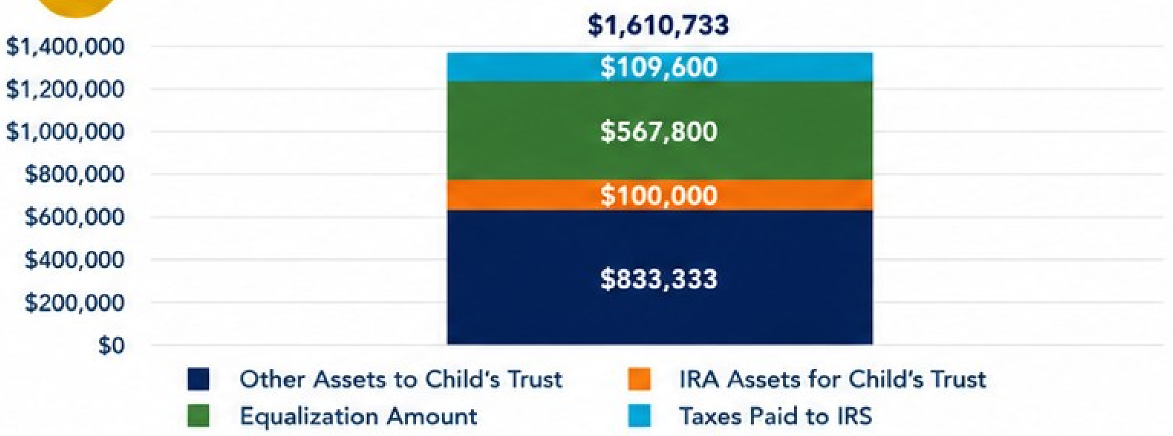
KEY TAKEAWAY | The TEA POT Trust System reduces taxes and equalizes inheritances, leaving **more wealth** in Child 1's trust for health, education, maintenance, and support.

Note: For illustrative purposes only. Assumes no growth on assets. Tax brackets are illustrative and subject to change.

CHILD 2: IMPACT OF THE TEA POT TRUST SYSTEM

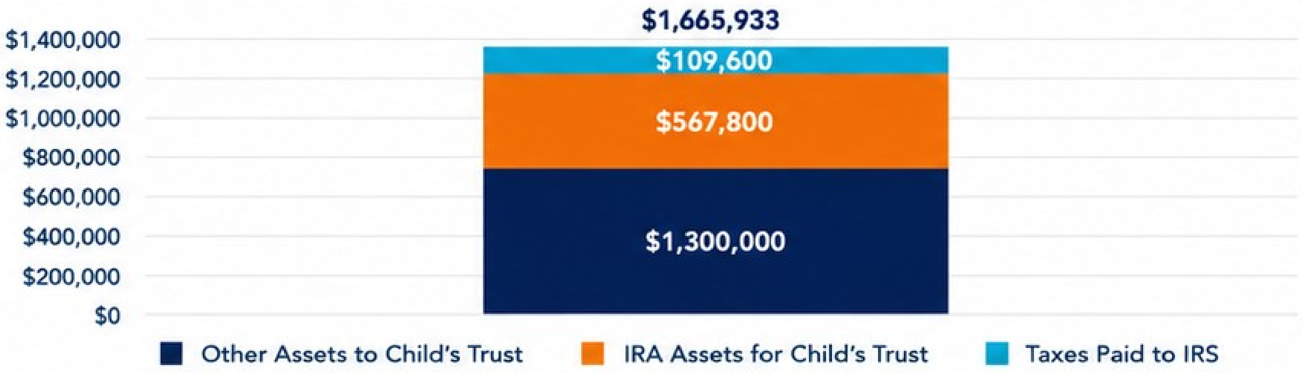
STRATEGIC DISTRIBUTIONS LEAD TO LOWER TAXES AND GREATER AFTER-TAX INHERITANCE

CHILD 2 – WITH TEA POT TRUST SYSTEM



With the TEA POT Trust System, strategic distributions and an equalization payment reduce taxes and provide Child 2 with a **higher after-tax inheritance**.

CHILD 2 – WITHOUT TEA POT TRUST SYSTEM



Without the TEA POT Trust System, higher taxes and no equalization payment result in a **lower after-tax inheritance** for Child 2.

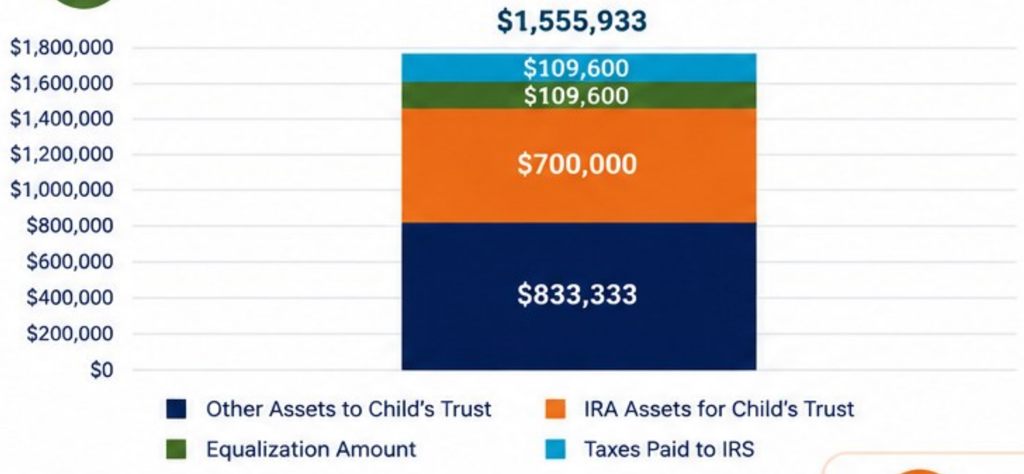
KEY TAKEAWAY | The TEA POT Trust System reduces taxes and equalizes inheritances, resulting in **more after-tax wealth** for Child 2.

Note: Assumes no growth on assets. Tax brackets are illustrative and subject to change.

CHILD 3: IMPACT OF THE TEA POT TRUST SYSTEM

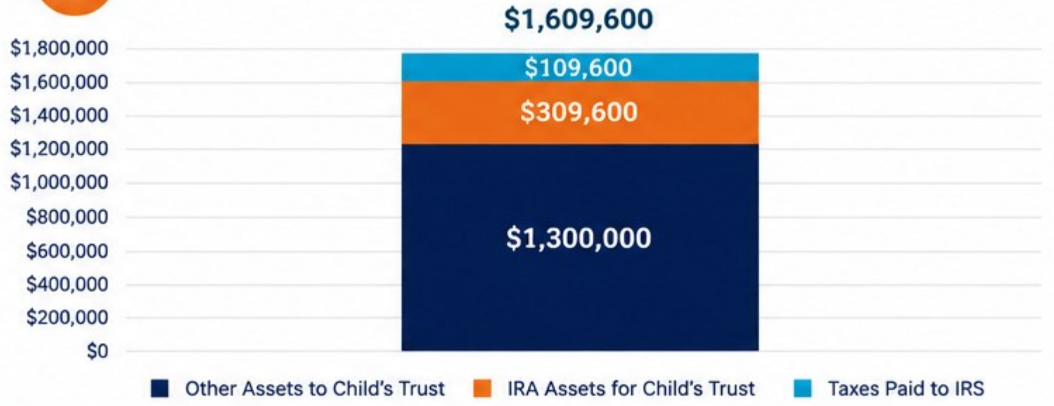
LOWER TAXES, EQUALIZATION PAYMENT, AND STRATEGIC DISTRIBUTIONS DELIVER THE BEST OUTCOME

CHILD 3 – WITH TEA POT TRUST SYSTEM



With the TEA POT Trust System, Child 3 receives an **equalization payment** and pays **lower taxes**, resulting in the **highest after-tax inheritance.**

CHILD 3 – WITHOUT TEA POT TRUST SYSTEM



Without the TEA POT Trust System, Child 3 pays higher taxes and receives no equalization payment, resulting in a **lower after-tax inheritance**.

KEY TAKEAWAY | The TEA POT Trust System **maximizes after-tax inheritance** for Child 3 through lower taxes and an equalization payment.

Note: Assumes no growth on assets. Tax brackets are illustrative and subject to change.

TEA POT TRUST SYSTEM: OVERALL RESULTS COMPARISON

STRATEGIC IRA DISTRIBUTION PLANNING CREATES HIGHER AFTER-TAX FAMILY WEALTH

RESULTS WITH TEA POT TRUST SYSTEM

IRA Assets	$900,000
Total taxes owed to IRS	($132,200)
Remaining IRA balance after taxes	$767,800
Total Other Assets	$3,900,000
TOTAL	**$4,667,800**

$92,800

ADDITIONAL FAMILY WEALTH PRESERVED

The TEA POT Trust System results in **$92,800 more after-tax wealth** for your family.

RESULTS WITHOUT TEA POT TRUST SYSTEM

IRA Assets	$900,000
Total taxes owed to IRS	($225,000)
Remaining IRA balance after taxes	$675,000
Total Other Assets	$3,900,000
TOTAL	**$4,575,000**

KEY TAKEAWAY | Strategic distribution planning reduces IRS tax drag and preserves **more multi-generational wealth.**

Note: Assumes no growth on assets. Tax brackets are illustrative and subject to change.

See-Through Trust Requirements

Four Main Requirements:

- Trust must be valid under state law
- Trust must become irrevocable at death
- Beneficiaries must be identifiable
- Required trust documentation must be provided timely (typically for 401(k) plans)

See-Through Trust Requirements

Failure May Trigger:

- Accelerated distributions
- Adverse tax consequences
- Reduced planning flexibility

TOD & POD Designations: Probate Avoidance Tools

TOD = Transfer on Death
POD = Payable on Death

Potential Benefits:

- Probate avoidance
- Faster asset transfer
- Reduced administrative costs
- Simplified beneficiary transfers

Important Considerations:

- Coordination with trust documents
- Risk of disinheriting intended beneficiaries
- Minor beneficiary issues
- Creditor protection limitations
- State law differences

Asset Titling and Estate Planning

Married Couples

Titling Options for Married Couples

Ownership Type	Key Feature	Common Estate Planning Use
Joint Tenancy w/ ROS	Automatic survivorship	Probate avoidance
Tenancy by the Entirety	Survivorship + creditor protection	Married couples
Community Property	Shared marital ownership	Community property states
Community Property w/ ROS	Survivorship + basis benefits	Married couples in CP states
Tenants in Common (TIC)	Separate ownership interests	Advanced trust & inheritance planning

Titling Options Summary

1. Revocable Living Trust (Best for Estate Planning)

How it works: Assets are transferred into the name of a trust, with you and your spouse acting as co-trustees to maintain full control.

Why it's recommended: It avoids the costly and time-consuming probate process when one or both spouses pass away. It is highly recommended if you have children from previous marriages or complex estates.

2. Tenancy by the Entirety (TBE) (Best for Asset Protection)

How it works: This is a special joint ownership available only to married couples. Both spouses own \(100\%\) of the property, and ownership automatically passes to the survivor.

Why it's recommended: In states that recognize it (including Pennsylvania, New York, Florida, and Virginia), it provides strong protection against creditors. If a creditor sues one spouse individually, they generally cannot seize an asset held as a TBE.

3. Community Property with Right of Survivorship (Best for Tax Benefits)

How it works: Available primarily in community property states (such as California, Texas, and Nevada), this titling passes the property directly to the surviving spouse without probate.

Why it's recommended: The surviving spouse receives a favorable step-up in basis for tax purposes, minimizing capital gains taxes if the asset is later sold.

Titling Options Summary Continued

4. Joint Tenants with Right of Survivorship (JTWROS)

How it works: Both spouses own equal shares of the asset. When one passes, the other automatically absorbs the deceased spouse's share.

Why it's recommended: It avoids probate. While highly common, it offers less individual creditor protection than a TBE and can sometimes be unilaterally severed by one spouse

5. Tenants in Common (TIC)

How TIC Works:
Tenants in common (TIC) ownership allows each spouse to own a separate percentage interest in an asset that can be transferred independently through their estate plan at death.

Why It's Recommended:
TIC ownership is often recommended because it provides greater estate planning flexibility for trust planning, blended families, unequal ownership interests, and customized inheritance strategies.

Joint Ownership vs Tenants in Common

Issue	Joint Survivorship	Tenants in Common
Avoids Probate	Yes	Usually No
Automatic Transfer	Yes	No
Controlled by Will/Trust	No	Yes
Flexible Ownership %	No	Yes
Better for Blended Families	Usually No	Often Yes
Trust Planning Flexibility	Limited	Strong

Assets that Can Be Titled Tenants in Common

Possibilities:

- Real Estate
- Brokerage Accounts
- Bank Accounts
- Closely-Held Businesses
- LLCs
- Oil & Gas

~~Retirement Accounts~~

Jointly Owned Assets with Right of Survivorship

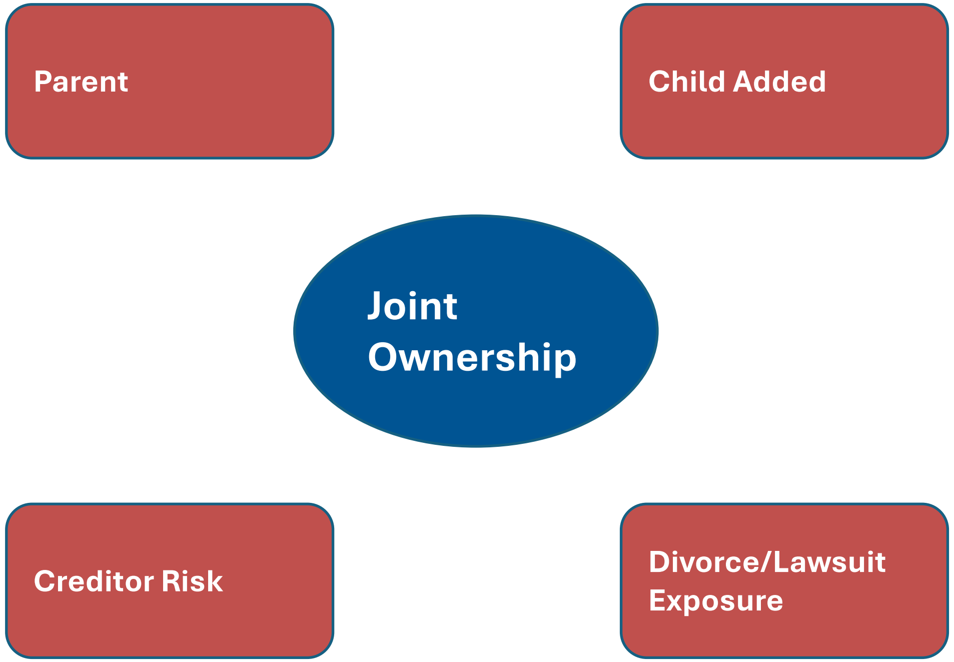
Why Asset Titling May Override the Estate Plan

Client's Will or Trust → Joint Account with Survivorship → Asset Transfers Automatically → Named Joint Owner Receives Asset

Jointly owned assets generally bypass the Will or Revocable Trust.
Assets transfer automatically by operation of law.
Improper titling can unintentionally disinherit heirs and disrupt tax planning.

Sources: IRC §1014, Concurrent Estate Principles, ACTEC Estate Planning Resources, FindLaw Estate Planning Commentary.

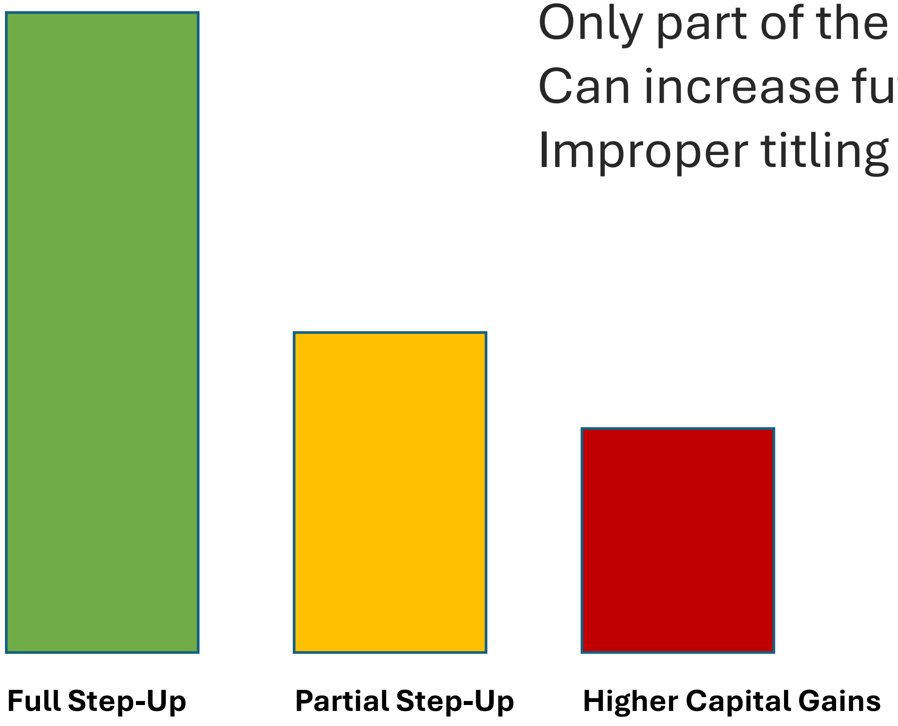
Adding a Child as Joint Owner Creates Risk



May create gift tax concerns.
Child's creditors may access the asset.
Divorce or lawsuits can create exposure.

Sources: IRC §1014, IRS guidance, FindLaw estate planning resources, Forbes estate planning commentary.

Joint Ownership May Reduce Step-Up in Basis

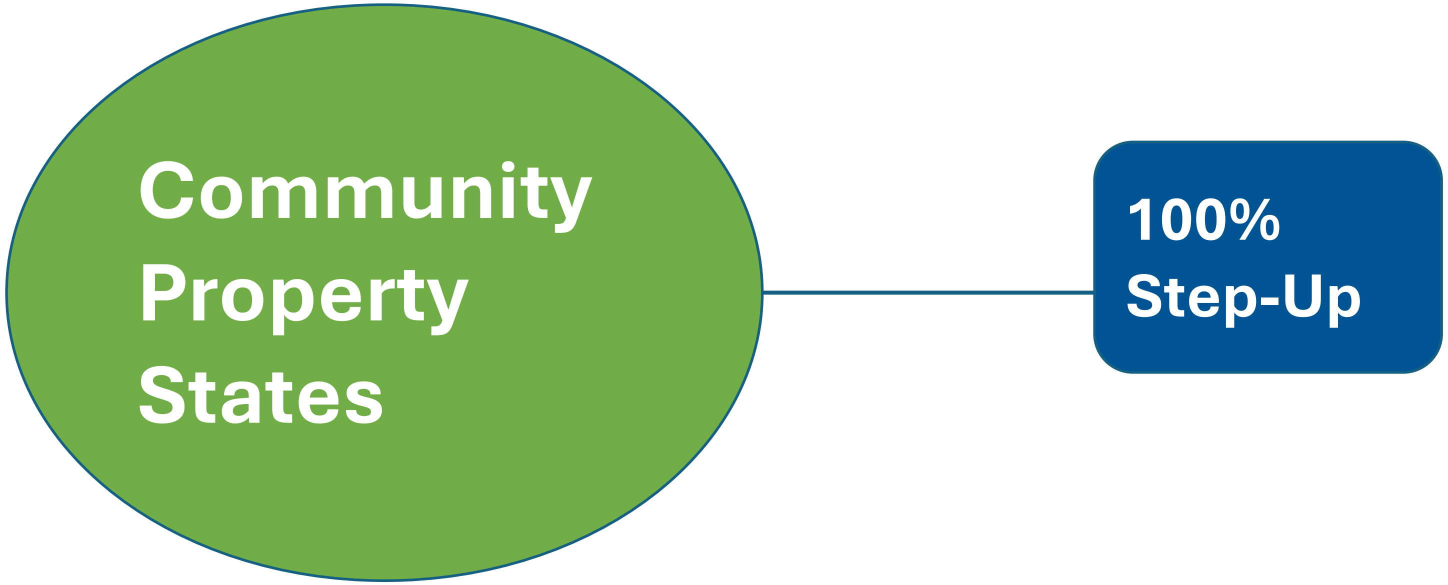


Only part of the asset may receive basis adjustment.
Can increase future capital gains taxes.
Improper titling may reduce tax efficiency.

Sources: IRC §1014, IRS guidance, FindLaw estate planning resources, Forbes estate planning commentary.

Community Property States May Receive Better Tax Treatment

Both halves may receive full step-up in basis.
Can produce major capital gains tax savings.
Proper structuring is critical.



Sources: IRC §1014, IRS guidance, FindLaw estate planning resources, Forbes estate planning commentary.

Beneficiary Designations

Beneficiary Designations

Beneficiary Designations, which are considered a contract, take precedence over any distribution provision in a deceased person's Will or Trust.

Common Mistakes:

- Failing to update beneficiaries after divorce/remarriage
- Naming estates accidentally
- Naming Charities and other beneficiaries on the same account
- Naming minors directly
- Incorrect trust drafting
- Failure to coordinate with estate plan
- Missing contingent beneficiaries

SPOUSAL VS NON-SPOUSAL BENEFICIARIES

Different Beneficiaries = Different Planning Rules

*QCDs are allowed from inherited IRAs if the standard requirements for a QCD are met

Issue	Spouse	Non-Spouse
Can roll into own IRA?	Yes	No
Subject to 10-year rule?	Usually No	Usually Yes
RMD flexibility	High	Limited
Can delay RMDs?	Often	Limited
Roth conversion flexibility	Significant	No

Using Charitable Planning to Reduce IRA Taxation

Potential Strategies:

- Qualified Charitable Distributions (QCDs)
- Naming charities as IRA beneficiaries
- Charitable Remainder Trusts (CRTs)
- Donor Advised Funds (DAFs)

Why It Matters:

- Traditional IRAs are often among the least tax-efficient assets to leave to heirs

CHARITABLE REMAINDER TRUST CREATIVE PLANNING STRATEGY

- **Make Large IRA And Pension Accounts Payable To A Standby CRUT With Blocker LLC For Funding On Death Can Be Used For This (See Blattmachr, Bigge & Shenkman Article)**
- Maintain a dedicated Revocable Trust that will become a Flip NIMCRUT on the death of the grantor.
- Have this Revocable Trust own an LLC.
- Have the LLC be the beneficiary of the IRA. The income recognized by the LLC may not be considered to be Fiduciary Accounting Income of the Flip NIMCRUT until dollars or assets are actually transferred from the LLC to the Flip NIMCRUT if situated in a proper state. A 20-year Flip NIMCRUT could have 19 years of postponed income.
- This not only defers the income but also causes there to be less ordinary income. For example, if $1 million is in the IRA on death, then all growth during a 10-year term would cause ordinary income if payable to a person or trust. If payable to the CRUT there is $1 million of deferred ordinary income, and the rest of the income deferred for up to 20 years or longer can include capital gains and lower taxed qualified dividend and perhaps tax-free municipal bond income.

Pre-Death Planning for Annuities

Common Issues:

- Non-qualified annuity taxation
- Beneficiary designation problems
- Trust ownership complications
- Forced payout rules
- IRD (Income in Respect of a Decedent)

Planning Opportunities:

- Annuitization analysis
- Strategic beneficiary selection
- Tax bracket management
- Coordination with trust planning

Life Insurance Trust Strategies

Potential Uses of ILITs:

- Estate tax reduction
- Liquidity creation
- Wealth replacement after Roth conversions
- Equalization among heirs
- Funding estate tax obligations

Important Planning Concepts:

- Crummey powers
- Trustee selection
- Gift tax considerations
- Three-year lookback rule for policies transferred to the ILIT

Sources: IRS Publications 590-A, 590-B, CMS.gov, SECURE Act, ACTEC Resources

Common Planning Mistakes

Frequent Errors:

- Inappropriate titling
- Outdated beneficiary forms
- Naming estates unintentionally
- Ignoring SECURE Act changes
- Poorly drafted trusts
- Ignoring trust tax brackets
- Failing to coordinate tax and legal planning
- Ignoring IRMAA consequences
- Missing Roth conversion opportunities

Sources: IRS Publications 590-A, 590-B, CMS.gov, SECURE Act, ACTEC Resources

Key Action Items for Advisors

Review:

- Review asset titling
- Beneficiary designations
- Trust language
- Roth conversion opportunities
- IRMAA exposure
- Charitable planning opportunities
- Estate liquidity needs
- Probate avoidance strategies

Coordinate With:

- Estate planning attorneys
- Tax professionals
- Insurance specialists
- Trustees

Sources: IRS Publications 590-A, 590-B, CMS.gov, SECURE Act, ACTEC Resources

Final Takeaways

- SECURE Act planning changed inherited IRA strategies dramatically
- Account tiling and Beneficiary designations are critical
- Trust design matters more than ever
- IRMAA exposure should not be ignored
- Roth conversions can improve multigenerational outcomes
- Advanced planning creates flexibility and protection
- Coordination among advisors is essential

Sources: IRS Publications 590-A, 590-B, CMS.gov, SECURE Act, ACTEC Resources

Advisor Conversation Starters

Questions Advisors Should Ask Clients

- How are all of your assets titled?
- Who are the beneficiaries of your retirement plan accounts, annuities, and life insurance policies?
- Have your beneficiary forms been updated recently?
- Do your heirs have issues, such as being a spendthrift, marital troubles, special needs, etc.
- Are your heirs likely to be in high tax brackets?
- Do you have concerns about creditor protection or divorce?
- Have you evaluated Roth conversion opportunities?
- Does your estate plan coordinate with retirement accounts and asset titling?
- Could large distributions trigger IRMAA issues?

Sources: IRS Publications 590-A, 590-B, CMS.gov, SECURE Act, ACTEC Resources

Additional Sources

- IRS Publication 590-A
- IRS Publication 590-B
- Treasury Regulations §1.401(a)(9)
- CMS.gov
- Medicare.gov
- ACTEC
- Kitces.com
- Journal of Financial Planning

Planning After Death

Part 2 of 2

After Death Planning

- Disclaimers
- Formula Clauses
- Trust Protectors
- How to Use the Clayton Election
- Retitling Assets after 1st Spouse Dies
  - Who becomes beneficiaries?
  - Add TOD or POD if not in a Trust
- Form 706 and the 5-year rule

Behavioral Side of Estate Planning

Why Clients Make Poor Decisions After Death:

- Fear
- Grief
- Family pressure
- Urgency
- Loss aversion
- Cognitive overload

The advisor becomes the emotional circuit breaker.

First 90 Days After Death — Advisor Checklist

- Pause emotional decisions
- Review beneficiary designations
- Review titling of assets
- Analyze disclaimer opportunities
- Evaluate portability and QTIP election filing deadlines
- Coordinate tax and legal teams
- Assess IRMAA exposure

Disclaimer Fundamentals

Disclaimers: Overview

Strategic refusal of inherited assets

Allows assets to pass to next beneficiary

Used for tax and family planning flexibility

Why Disclaimers Matter

- Helps reduce overall family taxes
- Addresses large IRA tax burdens
- Creates post-death planning flexibility

IRA Tax Problem

Required Minimum Distributions (RMDs)

Increase taxable income over time

Can trigger IRMAA and surtaxes

Worse for surviving spouse

How Disclaimers Help

- Shift assets to lower-tax beneficiaries
- Often children or grandchildren
- Can significantly reduce total taxes
- No gift tax since asset never owned

Disclaimer Rules

- Must disclaim in writing within 9 months of death
- Cannot benefit from the asset first
- Irrevocable once executed
- State rules may vary

Interests Subject to Disclaimer

- *Transfers during Lifetime*. As previously noted, many different types of interests in (or powers over) property may be disclaimed, including interests (or powers) conveyed during the donor's lifetime and at death. Lifetime transfers can be those made in trust.

Transfers at Death

Disclaimable testamentary interests include:

- Bequests or devises under a Will;
- Interests in an intestate estate;
- Interests obtained by operation of law, such as Survivorship interests in a jointly owned asset; and
- Interests obtained by contract, such as Beneficiary interests in beneficiary designated accounts/policies, including (1) a company retirement account; (2) an IRA; (3) an annuity policy; or (4) an insurance policy.

Flexibility

Can disclaim all or part of an asset

Can choose specific investments

Allows customized tax planning

Limitations

- Cannot choose who receives assets
- Follows beneficiary designations
- Treated as if disclaimant predeceased

Limitations

A disclaimed asset will pass to the successor, or contingent beneficiary, and cannot be directed by the disclaimant making the disclaimer.

In general, the disclaimant can't benefit from the asset following the qualified disclaimer.

Importance of Beneficiary Designations

- Primary, secondary, and tertiary beneficiaries
- Enables disclaimer planning
- Critical for multi-generational planning

Special Considerations: Minors

May require guardian or court involvement

Subject to Kiddie Tax

May require annual IRA withdrawals

Charitable Planning Opportunity

- Charities can be named as beneficiaries
- IRA distributions to charity are tax-free
- Can disclaim to charity post-death

Why Disclaimer Strategies Often Fail

Common Reasons:

- • Surviving spouse panic
- • Fear of losing control
- • Family conflict
- • Uncertainty about future needs
- • Emotional attachment to inherited assets
- • Failure to act within 9 months

Key Insight:

- Technically elegant planning often fails behaviorally.

Disclaimer Trust Strategies

Why Disclaimer Planning Matters:
- Allows post-death flexibility
- May improve tax efficiency
- Can redirect assets strategically
- Useful when laws or family circumstances change

Key Rules:
- Must generally occur within 9 months of death
- Must be irrevocable
- Beneficiary cannot accept benefits prior to disclaimer

CAN YOU DISCLAIM AND AVOID PROBATE?

Important Concepts:

- Proper beneficiary designations generally avoid probate
- Qualified disclaimers may redirect inherited assets
- Probate avoidance depends on titling and beneficiary structure
- State laws vary significantly

Potential Uses:

- Tax optimization
- Asset protection
- Family equalization
- Multi-generational planning

Case Study

Multi-Generational IRA Planning

Grandpa leaves large traditional IRA to Grandma

Grandma rolls IRA into her own name

Grandma passes away one year later

Additional Considerations

Children may need to take annual withdrawals

Behavioral readiness of beneficiaries matters

Daughter may need funds herself

Decision must align with family goals

Tax Impact: With vs. Without Disclaimer

Without Disclaimer:

- Daughter inherits IRA in high tax bracket
- 10-year withdrawals taxed at higher marginal rates
- Potential IRMAA and surtax impacts

With Disclaimer:

- Children inherit IRA in lower tax brackets
- Same 10-year rule but at lower rates
- Reduced overall family tax burden

Updated Numeric Example (Using 2025 Inflation Adjusted Tax Brackets - Estimated)

Scenario: $1,000,000 Traditional IRA

Assumptions:

- Daughter: Single, ~$300K income → ~35–37% marginal bracket
- Children: Single, ~$80K income → ~22–24% marginal bracket

Without Disclaimer (Daughter):

- ~$100K/year withdrawals
- Marginal tax ~35%
- Estimated total tax ≈ $300K–$350K

With Disclaimer (2 Children):

- ~$50K/year per child
- Marginal tax ~22%
- Estimated total tax ≈ $200K–$240K

Estimated Family Tax Savings: ~$100K–$140K

Scenario: $2,000,000 Traditional IRA Disclaimed to 4 grandchildren

Assumptions:
- Each grandchild receives $500,000
- Withdrawals over 10 years ≈ $50,000/year each
- Grandchildren in ~12%–22% tax brackets

Without Disclaimer

(Parent ~35% bracket):

- ~$200,000/year Draws
- Tax ≈ $70,000/year
- Total tax ≈ $700,000

With Disclaimer

(4 Grandchildren):

- ~$50,000/year per grandchild
- Tax ≈ $6,000–$11,000/year each
- Total combined tax ≈ $240,000–$440,000

Estimated Family Tax Savings: ~$260K–$460K

Conduit Trusts

How They Work:

- IRA distributions received by trust must pass directly to the beneficiary.
    - QTIP Marital Trusts Must be Conduit Trusts

Potential Advantages:

- Simpler drafting
- Historically favorable stretch treatment
- Easier IRS compliance

Potential Drawbacks After SECURE Act:

- Mandatory payout to beneficiaries
- Reduced asset protection
- Less control
- Accelerated taxable income

Sources: IRS Publications 590-A, 590-B, CMS.gov, SECURE Act, ACTEC Resources

Accumulation Trusts

How They Work:

- Trust may retain IRA distributions instead of immediately distributing them.

Potential Advantages:

- Better creditor protection
- Greater control
- Protection from poor beneficiary decisions
- Divorce/spendthrift safeguards
- Maintain assets in the family bloodline so they are not redirected to an unwanted or unexpected heir

Potential Drawbacks:

- Extremely compressed trust tax brackets
- Potentially higher tax rates
- Complex administration

Sources: IRS Publications 590-A, 590-B, CMS.gov, SECURE Act, ACTEC Resources

Conduit vs Accumulation Trusts

Comparing Trust Structures

Feature	Conduit Trust	Accumulation Trust
Creditor Protection	Moderate	Strong
Beneficiary Control	Lower	Higher
Tax Efficiency	Often Better	Often Worse
Flexibility	Limited	Greater
SECURE Act Impact	Significant	Significant
Complexity	Lower	Higher

Planning Using Conduit and Accumulation Trusts

- QTIP Marital Trusts Must be Conduit Trusts
- Prior to the SECURE Act, since most beneficiaries would receive the IRA "Stretch", Conduit Trusts were used for Trusts for children and other non-spouse heirs
- Since the SECURE Act, often Trusts for the children or other non-spouse heirs are Accumulation Trusts to maintain creditor/divorce protection and distribution control over the IRA RMDs once distributed from the IRA
- This change was necessitated due to the short 10-year distribution rule
- Assets in the Trust are typically taxed at compressed income tax rates resulting in a 37% tax at around $16,000 of income
- To address this issue, Beneficiary Deemed Owner Trusts (BDOTs) can be used

Beneficiary Deemed Owner Trusts (BDOTs)

- BDOTs are based on IRC §678
- BDOTs are provisions in the Trust for the children or heirs whereby they are treated as the owner of the Trust for income tax purposes
- The Trust provides a Power allowing the beneficiary to withdrawal the income from the trust, if requested
- They are typically given a period of time to request this withdrawal, after which the Power lapses
- This Power, if not exercised, enables the assets to remain in Trust but the income is taxed to the Trust beneficiary at their typically lower personal income tax rates, compared to the compressed Trust income tax rates
- Not all attorneys like to use the BDOT strategy and many are unfamiliar with this strategy

Case Study-Conduit Trusts

- The Living Trust includes provisions that establish Conduit Trusts for each of the two children at the death of the surviving spouse
- The IRA left in Trust is worth $3 million
- Each child's Conduit Trust holds $1.5 million in IRA assets and must be distributed within 10 years of death
- As each RMD is distributed from the IRA to the Trust, the Conduit Trust requires that the distribution is then distributed outright to the child, losing creditor/divorce protection, creating the potential for the assets being redirected away from the family bloodline and other intended future heirs
- The children may be spendthrifts, addicted to alcohol, drugs or gambling, or have special needs where government benefits may be lost due to having too many assets
- The benefit is that any income tax will be paid by the beneficiary, often at lower income tax rates that the compressed Trust income tax rates

Case Study-Accumulation Trusts

- The Living Trust includes provisions that establish Accumulation Trusts for each of the two children at the death of the surviving spouse
- The IRA left in Trust is worth $3 million
- Each child's Conduit Trust holds $1.5 million in IRA assets and must be distributed within 10 years of death
- As each RMD is distributed from the IRA to the Trust, the Accumulation Trust allows the distributed assets to remain in Trust where the Trustee can then invest them in bank or brokerage accounts, real estate, or other assets
- This maintains creditor/divorce protection, and avoiding the risk that the assets could be redirected away from the family bloodline and other intended future heirs
- This protection is important if the children are spendthrifts, addicted to alcohol, drugs or gambling, or have special needs where government benefits may be lost due to having too many assets outright

Case Study-Accumulation Trusts

- The issue is that the income tax will be taxed at the compressed Trust income tax rates that reach 37% at only $16,000 in 2026
- By including BDOT provisions in the Accumulation Trust, the beneficiaries would have the right to request a distribution of the income within a period of time, after which this power will lapse
- Following lapse, the assets remain in the Trust for creditor/divorce protection and distribution control, but the income is taxed at the beneficiary's personal income tax rates, which typically are lower than the compressed Trust income tax rates
- This strategy may not be effective if the beneficiaries invoke the Power and take the withdrawal, which may cause problems if a spendthrift, have an addiction or special needs
- A Trust Protector can be given the power in the document to be able to revoke the BDOT power if the beneficiary plans to use it
- This would cause the income to be taxed at the unfavorable Trust income tax rates

Formula Clauses: Second-Stage Estate Planning

- A formula clause is estate-planning language that:
  - automatically reallocates inherited assets
  - based on:
    - tax laws,
    - exemption amounts,
    - beneficiary needs,
    - or post-death decisions

Where Formula Clauses Are MOST Commonly Drafted

Document	Common?	Purpose
Revocable Trust	Very Common	Post-death flexibility
Will	Sometimes	Formula bequests
IRA Beneficiary Trust	Extremely Common	SECURE Act planning
Disclaimer Trust	Extremely Common	Flexible bypass planning
QTIP Trust	Extremely Common	Marital deduction flexibility
Dynasty Trust	Common	GST planning
CRT / Charitable Trust	Common	IRA tax optimization

The Growing Role of Trust Protectors

What Is a Trust Protector?

- A trust protector is an independent party granted limited powers to modify or oversee trust administration.

Potential Powers:

- Remove and replace trustees
- Modify administrative provisions
- Respond to tax law changes
- Address beneficiary disputes
- Change trust situs or governing law
- Correct drafting ambiguities

Why They Matter:

- Increased planning flexibility
- Adaptability for future tax law changes
- Multi-generational trust oversight

The Clayton Election

- This election is based on the case, Estate of Clayton vs. Commissioner (97 T.C. 327 (1991), 976 F.2d 1486 (5^{th} Cir. 1992)
- After the first spouse dies, the decision in this case allows for a clause in the Revocable Living Trust that will enable the Trustee of the Administrative Trust to make the determination regarding the amount and specific assets, if any, that will fund the Bypass Trust (Credit Shelter Trust) and the Marital Trust
- This provides flexibility in an ever-changing estate tax landscape
- It also provides flexibility related to income taxes since the assets funding the Bypass Trust will generally not receive a stepped-up basis at the death of the surviving spouse and will not be included in the surviving spouse's estate, whereas the assets in the Marital Trust generally will receive the basis step-up and the assets will be included in the surviving spouse's estate

The Clayton Election vs. Fractional Formulas

- When a Revocable Living Trust is used, at the death of the first spouse, the assets can be distributed in further Trust
- The determination of the split is based on the terms of the Revocable Living Trust and typically include either a Fractional Formula or Clayton Election
- A Fractional Formula was typically used when the Federal Estate Exemption was much lower and prior to there being Portability allowed of the deceased spouse’s unused exemption amount
- Fractional Formulas will typically transfer all assets up to the Federal Exemption amount to the Bypass Trust and are not very flexible

RETITLING ASSETS AFTER THE FIRST SPOUSE DIES

Why Retitling Matters:

- Improper retitling may:
- Defeat trust planning
- Create probate exposure
- Disrupt tax planning strategies
- Cause beneficiary conflicts
- Reduce creditor protection

Common Retitling Considerations:

- Joint accounts
- Brokerage accounts
- Real estate
- LLC interests
- Closely held business interests
- Retirement accounts

Important Questions:
Should assets remain in trust?
Should ownership be divided?
Should portability planning be considered?

Evaluating Beneficiary Structures After Death

Key Questions Advisors Should Help Address:

- Should children inherit directly?
- Should trusts become beneficiaries?
- Should assets remain in marital trusts?
- Should contingent beneficiaries be revised?
- Are there creditor or divorce concerns?
- Are there spendthrift beneficiaries?
- Are there special needs beneficiaries?

Potential Planning Goals:

- Tax efficiency
- Asset protection
- Family harmony
- Probate avoidance
- Flexibility for future generations

Form 706 = Federal Estate Tax Return

Important Reasons to File:

- Portability election
- Preserve deceased spouse unused exemption (DSUE)
- Elect QTIP Trust status for the Marital Trust
- GST allocation opportunities
- Asset valuation documentation

Important Timing Considerations:

- Generally due 9 months after death
- Extensions may apply
- Portability elections can be critical

Form 706 = Federal Estate Tax Return

The 5-Year Rule to elect portability of the DSUE and to elect QTIP status - Planning Considerations:

- Potential applications involving:
- Inherited retirement accounts
- Trust administration
- Estate tax planning
- Portability relief procedures

Critical Checklist After the First Spouse Dies

Immediate Advisor Review Areas:

- Beneficiary designations
- Trust funding status
- Asset retitling
- TOD/POD coordination
- Form 706 filing analysis
- Portability and QTIP elections
- IRA distribution timing
- Roth conversion opportunities for surviving spouse
- IRMAA exposure projections
- Trust protector powers

Gotchas

Source: https://legalclarity.org/how-to-disclaim-an-inheritance-and-what-happens-next/?utm_source=chatgpt.com

Gotcha #1: Accepting Benefits

Taking any benefit invalidates disclaimer

Examples: cash, property use, distributions

Once accepted = legally yours

Case Study: IRA Mistake

Client takes 1 IRA distribution

Attempts to disclaim remaining balance

Result: disclaimer invalid

Full tax liability remains

Gotcha #2: 9-Month Deadline

Must act within 9 months of death

No extensions in most cases

Miss deadline = no disclaimer

Gotcha #3: Loss of Control

- Cannot direct where assets go
- Passes via will or beneficiary designations
- Trying to redirect = taxable gift

Case Study: Control Misunderstanding

- Client wants assets to go to children
- Attempts disclaimer with direction
- Fails—treated as gift
- Creates gift tax exposure

Gotcha #4: Government Benefits

May impact Medicaid, SSI eligibility

Seen as asset transfer

Could trigger penalties or loss of benefits

Case Study: Medicaid Risk

Client disclaims inheritance

Applying for Medicaid

Transfer penalty applied

Benefits delayed

Gotcha #5: Creditor Risk

CREDITORS MAY CHALLENGE DISCLAIMER

ESPECIALLY IF AVOIDING DEBTS

COULD BE TREATED AS FRAUDULENT TRANSFER

Case Study: Creditor Challenge

- Client has large debts
- Disclaims inheritance
- Creditors sue
- Court may reverse disclaimer

Gotcha #6: Irrevocable

Cannot reverse decision

No ability to reclaim assets

Permanent outcome

Gotcha #7: Retirement Accounts

IRAS HAVE STRICT RULES

ANY DISTRIBUTION VOIDS DISCLAIMER

IMPACTS TAX PLANNING

Advisor Best Practices

1. Act quickly (9-month rule)
2. Confirm no benefits accepted
3. Review creditor and benefit risks
4. Coordinate with legal and tax experts